

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PHILLIP BARNETT, #019760,

Plaintiff,

v.

DR. GRADY SHAW, et al.,

Defendants.

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Civil Action No. **3:11-CV-399-L**


ORDER

Before the court are: (1) Plaintiff's Motion for the Appointment of Counsel, filed April 14, 2011; and (2) Plaintiff's Motion for Leave to Amend, filed April 22, 2011. United States Magistrate Judge Renee Harris Toliver was selected to handle matters in this case pursuant to Miscellaneous Order 6. On May 18, 2011, she entered Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report"). No objections to the Report were filed.

Plaintiff is a pretrial detainee at the Navarro County Justice Center in Corsicana, Texas. He filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against Dr. Grady Shaw, Sheriff Leslie Cotton, Nurses Joy and Margie, and Officers Phillipson, Sweeny, and Hightower. He asserts claims stemming from the conditions of his confinement at the Navarro County Jail. The Report makes clear that Plaintiff's claims are insufficiently pled and not legally cognizable. Specifically, they fail to state constitutional violations or allege a persistent failure by Defendants to provide for his basic human needs. The magistrate judge accordingly recommends that the court dismiss Plaintiff's complaint with prejudice as frivolous and deny Plaintiff's motions to appoint counsel and amend.

After making an independent review of the pleadings, filings, record, and Report in this case, the court agrees with the magistrate judge. The magistrate judge's findings and conclusions are accordingly **accepted** as those of the court. Plaintiff's Motion for the Appointment of Counsel and Plaintiff's Motion for Leave to Amend are **denied**. This action is further **dismissed with prejudice** as frivolous. The dismissal will count as a "strike" or "prior occasion" within the meaning of 28 U.S.C. § 1915(g). Pursuant to Rule 58 of the Federal Rules of Civil Procedure, a judgment will issue by separate document.

It is so ordered this 7th day of June, 2011.


Sam A. Lindsay
United States District Judge